

IV. REMARKS

Status of the Claims

Claim 18 is amended. Claims 1-14 remain under consideration.

Summary of the Office Action

Claims 1-14 stand rejected based on a judicially created doctrine of double patenting over commonly owned, U.S. Patent No. 6,533,565. Claims 18 and 19 stand rejected under 35USC102(e) on the basis of the cited reference Kragle, U.S. Patent No. 5,702,659. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

The Issue of Double Patenting

Applicant submits the attached terminal disclaimer. Applicant submits that in view of the attached disclaimer, the rejection based on the judicially created doctrine of double patenting is overcome.

Discussion of the Cited Reference

The Examiner has cited the reference Kraglen in support of the rejection based on anticipation. Applicant has amended claim 18 to specify the structure that provides a "funnel effect". This feature is not described in any manner in the cited reference Kragle.

The Issue of Anticipation

It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either

expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier.

Applying this standard to the system of the reference Kragle, it becomes clear that the system of Kragle is missing significant elements of independent claim 18. There is no provision for a "funnel effect. Claim 18 states:

"wherein each of said distribution channels in a module is constructed having a smaller cross section than the distribution channel of an immediately upstream module to provide a funnel effect from said inlet to said outlet within each of said at least one regional flow streams formed thereby."

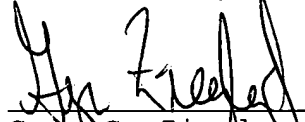
Since this feature forms no part of the system of Kragle, there would be no infringement, if Kragle was later, therefore, the cited reference Kragle does not support the rejection of amended claim 18 by the Examiner based on anticipation.

The above arguments are equally applicable to the rejected dependent claim 19.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below. The Commissioner is hereby authorized to charge payment for any

fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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29 September 2004
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